

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Leo Cassidy,

Plaintiff,

v.

Case No. 1:22-cv-00370

Adams County, Ohio, et al.,

Judge Michael R. Barrett

Defendants.

ORDER

This matter is before the Court on the Magistrate Judge's August 25, 2022 Report and Recommendation ("R&R"). (Doc. 11).

Proper notice has been given to Plaintiff under 28 U.S.C. § 636(b)(1)(C), including notice that he would waive further appeal if he failed to file objections to R&R in a timely manner. *See United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). On September 2, 2022, the R&R mailed to Plaintiff, at his address of record, by the Court was returned to the Clerk of Court's Office as undeliverable. (Doc. 12). Proper notice would have been provided to Plaintiff had he kept the Court apprised of his current address and, as the Magistrate Judge explained in the R&R, by failing to keep the Court informed of his current address, Plaintiff demonstrates a lack of prosecution of his action. *See Theede v. U.S. Dep't. of Labor*, 172 F.3d 1262, 1265 (10th Cir. 1999) (holding both that a failure to object to a magistrate judge's report and recommendation because of party's failure to bring to the court's attention a change in address constitutes failure to object in a timely manner, and, because the report and recommendation was mailed to the last known address, it was properly served and party waived right to appellate review); *see also Jourdan v. Jabe*, 951 F.2d 108, 110 (6th Cir. 1991) (holding that a pro se litigant has an

affirmative duty to diligently pursue the prosecution of his cause of action); *Barber v. Runyon*, No. 93–6318, 1994 WL 163765, at *1 (6th Cir. May 2, 1994) (holding that a pro se litigant has a duty to supply the court with notice of any and all changes in his address).

Accordingly, it is **ORDERED** that the August 25, 2022 R&R (Doc. 11) is **ADOPTED in full**. Consistent with the recommendation by the Magistrate Judge, it is further **ORDERED** that:

- Plaintiff's Complaint is **DISMISSED with prejudice** for lack of prosecution and for failure to obey a Court order;
- the Court **CERTIFIES**, pursuant to 28 U.S.C. § 1915(a), that an appeal of this Order would not be taken in good faith and thus **DENIES** Plaintiff leave to appeal in forma pauperis; and
- the Clerk of Court is **DIRECTED** to mail a copy of the August 25, 2022 R&R and this Order to Plaintiff's address of record and to the Correctional Reception Center in Orient, Ohio.

IT IS SO ORDERED.

_____/s Michael R. Barrett_____
Michael R. Barrett, Judge
United States District Court